



An
Bord
Pleanála

Inspector's Report ABP 310363-21.

Development	Detached news house with photovoltaic panels and removal and relocation of pedestrian gate in rear boundary wall and creation for a new vehicular entrance and driveway and ancillary site works.
Location	No 43 St Peter's Road, Little Bray, Bray, Co. Wicklow.
Planning Authority	Wicklow County Council.
P. A. Reg. Ref.	21/293
Applicant	Ian and Jean McGreevy.
Type of Application	Permission.
Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Ian and Jean McGreevy.
Date of Site Inspection	30 th October, 2021
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 270 square metres and is that of an end of terrace two storey house in a row of six with front and rear gardens facing onto St Peter's Road with the rear boundary adjoining Old Connaught at the northern end of Bray. There is a junction with the R761 (Dublin Road and Corke Abbey Avenue to the east. Immediately to the east of the site there are two storey buildings the ground floor levels all of which are stated to be in the applicant's ownership and are in commercial and community use. (Community Addiction Centre, Bernardo's and a Framing shop.)
- 1.2. There is a wall circa two metres in height along the rear boundary of this property and the other five properties and the footpath edge of Old Connaught Road. At the front of the site there is a vehicular entrance gate and a pedestrian gate and a pedestrian gate is also in the rear boundary wall of the garden.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a detached mews house with photovoltaic panels and the northern end of the rear garden facing onto Old Connaught Avenue Also proposed is creation for a new vehicular entrance off St Peter's Road and driveway along the eastern side of the existing dwelling to frontage curtilage parking for the proposed dwelling. In addition. and removal and relocation of pedestrian gate in rear boundary wall along with ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated, the planning authority decided to refuse permission based on the following reasons:

Reason 1.

"Having regard to the proposed development and the prevailing pattern of development in the area and the RE Existing Residential zoning objective for

the site which is “To protect, provide and improve residential amenities of existing residential areas”, it is considered that the proposed development would represent haphazard development that would be out of character with the prevailing pattern of development in the area, set an undesirable precedent for similar forms of piecemeal development in the vicinity and would seriously injure the amenities of property in the vicinity. The proposed development would be contrary to the proper planning and sustainable development of the area.”

Reason 2

“Having regard to the details submitted, the location of the proposed entrance and development permitted by reference to PRR 20/848, the planning authority considers that insufficient information has been submitted to show that adequate sightlines are available at the proposed entrance to ensure that it will not give rise to a serious traffic/pedestrian hazard and no details have been submitted to show the development will not impact on the structural integrity of the boundary wall of the site at Old Connaught Avenue. In the absence of such information, the development would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his report indicated acceptance of the proposed entrance although concern as to the implications for traffic safety were raised by the District Engineer. However, a refusal of permission was recommended on grounds of incompatibility with the prevailing character and pattern of development in the area, and potential precedent for similar haphazard development

4.0 Planning History

- 4.1.1. There is no record of planning history for the application site.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Wicklow County Development Plan, 2016-2022. (CDP) It is the policy of the planning authority under Objective HD2 to ensure residential development enhances and improves residential amenity and provides for highest possible standards of living for occupants. Objective HD9 provides for infill development to accord with good design and protection of existing residential amenities and architectural character in the immediate environs. Objective HD10 provides for infill development generally at a density that respects the established character of the area and the residential amenities of adjoining properties. Criteria for infill and back land development are in Appendix 1.

The operative local area plan is the Bray Local Area Plan, 2018 (LAP) according to which the site is located in an area subject to the zoning objective “RE: Existing Residential.” which provides for appropriate infill which accord with good design and the protection of residential amenities.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by KOTA architects on behalf of the applicant on 28th May, 2021 and it includes appendices with several attachments including photographs, a swept path analysis and drawings. The submission is detailed and includes an account with comments of the pre planning consultations, the planning context the site location and the assessment of the planning application. The appeal grounds can be outlined as follows: -.
- 6.1.2. An appeal was lodged by KOTA architects on behalf of the applicant on 28th May, 2021 and it includes appendices with several attachments including photographs, a swept path analysis and drawings. The submission is detailed and includes an account with comments of the pre planning consultations, the planning context the site location and the assessment of the planning application. According to the appeal:

- The applicant is in ownership of the adjoining properties to the east, resides in close proximity to the site location and has invested heavily in the area having recognised the full potential that could be achieved at location and for active street frontage on Old Connaught Avenue adjoining the rear of the site. There is an opportunity (as shown in a potential masterplan development for active street frontage in a terrace of mews house along Old Connaught Avenue. (Illustrations are provided.)
- The area, long narrow underutilised backhands at St. Peter's Road have potential for development and the opportunity was taken to respond with the current positive proposal of good design and use of energy efficiency for the location. Precedent can be taken for positive back land development from an award-winning permitted development at Lucky Lane, Aughrim Street, Dublin is an example of terraced mews house in a new and different typology. (Images are provided (P. A. Reg. Ref. 3091/14 refers.)
- Positive precedent would be set if the development is permitted as it would encourage neighbours to do likewise. The proposed site area is north facing and difficult to maintain and there a tendency for anti-social behaviour on Old Connaught Avenue.
- With regard to Policy objective HD 9 of the CDP that planning officer failed to take into consideration the scope for alternative and contemporary designs providing for visual diversity. Details of a successful commercial development at the adjoining site to the east, (designed by the applicant and assessed by the same planning officer) for which permission was granted under P. A. Reg. Ref. 20/848 are provided to support the case for positive modern interventions at important nodes. (Appendix 4 and 5 to the appeal refer.) Therefore, there is inconsistency by the decision to refuse permission for the current proposal. Furthermore, the location is at a sensitive junction at the boundary of the administrative aeras of Dun Laoghaire Rathdown and Bray/Wicklow where there is a mix match of development and an illogical and fragmented prevailing pattern of development. (Appendix 3 refers.)
- After consideration of various other options including a no parking proposal, the proposed parking and entrance arrangements were assessed with a view

to two on-site parking spaces being provided, A swept path analysis is provided but on-site manoeuvrability was left open to the homeowners. Four adjoining properties have on-site parking either at the front or at the rear of the dwellings via a driveway to the side of the house and this sets precedent for the subject proposal.

- The new access point would not alter the character of the area irrespective of the backland nature of the site. The planning officer's assessment and municipal engineer's assessments are contradictory and their remarks are arbitrary and misguided. The applicant is willing to accept a condition for further investigation as to sightlines at the entrance. Boundaries at the adjoining properties to the east in the ownership of the applicant can be adjusted, if required. If further details for dishing of the kerb to those shown in the drawing included with the appeal, the applicant is willing to engage services of an engineer if required.
- There is not overbearing impact and there is no overlooking or overshadowing potential as remarked by the planning officer and the dwelling is offset from the boundary wall and it merges well with surroundings as demonstrated in submitted before and after photomontages.
- With regard to private open space there is a deficit of five square metres of the CDP standards. The existing house has benefits from private amenity space enclosed by a high level hedge and a southerly aspect. The applicant is willing to omit one car space to overcome deficiencies in turning and to provide for substitution of private open space
- The applicant is willing to engage services of an engineer if required to investigate and provide for arrangements for underpinning of the wall on Old Connaught Avenue.
- A letter of consent can be obtained from adjoining property owners for record purposes for construction inside the metal party boundary fences.
- The applicant is willing to engage services of an engineer if required to investigate and provide for arrangements to provide for the requirements regarding drainage and attenuation.

6.2. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment**

7.1. The issues central to the determination of the decision can be considered below under the following subheadings:

Development in Principle

Residential quality.

Entrance arrangements

Structural Stability of wall on Old Connaught Avenue.

Environmental Impact Assessment Screening.

Appropriate Assessment Screening.

7.2. **Development in Principle**

7.2.1. It is agreed with the applicant's agent a rear boundary wall for a row of residential properties along the frontage onto Old Connaught Avenue at a prominent junction at the northern end of Bray does not contribute positively to the quality of the surrounding built environment. Ideally, development which is aesthetically positive and which would enhance the visual amenities and interest in its presentation onto the road frontage would be welcome. Furthermore, the principle of the argument, with reference to the opportunity taken up with regard to the permitted mews development along Lucky Lane off Aughrim Street in Dublin 7 is also fully appreciated.

7.2.2. There is no objection to the proposed dwelling form and elevation towards Old Connaught Avenue although the structure would be a somewhat isolated and conspicuous feature at the eastern end of Old Connaught Avenue in views to this prominent location from the public realm. If further developments in the rear gardens along the road frontage were to be determined to be feasible it is agreed with the applicant's agent that the example and illustrations for the suggested masterplan provided in the appeal, (which would also require agreement by all landowners) would address concerns as to haphazard or piecemeal development.

7.2.3. However, Old Connaught Avenue does not constitute a mews lane, or secondary rear access or services lane off which access is feasible. Furthermore, as was considered in the course of preparation of the application and, there are major constraints having regard to the site configuration and proposed subdivision as discussed in the planning officer report. While in describing the proposed development references are made to infill and mews lane development, it is considered that the current proposal is in effect a back land development for which access from the road at the front to the existing dwelling is required.

7.3. Residential quality.

7.3.1. It is considered that a driveway along the front, side and rear of the existing dwelling for on-site parking provision for a separate independent dwelling at the rear of the existing dwelling would diminish and seriously injure the residential amenities and privacy by reason of disturbance, light disturbance.

7.3.2. The private open space for the proposed dwelling is reasonable in configuration but it would be likely to have limited access to sunlight and it is dominated by the extent of hard surfaces required for the driveway and parking area.

7.3.3. The proposed dwelling's first-floor open plan living space would lack outlook, a north facing fenestration (without opaque glazing) facing onto a small terrace of awkward configuration and limited utility value only being available although the internal accommodation would also be lit via roof lights and the south facing high level and opaque glazed windows.

7.3.4. The quantum of private open space to remain to the rear of the existing dwelling is a little below the minimum of fifty square metres provided for in the CDP. It would be reasonable for a flexible approach to be taken in this regard but it is noted that the space is north facing and would lack access to sunlight. The argument that the south facing front garden area will function as private open space for the existing dwelling is noted but it is not agreed that it is sufficient in quality and amenity potential for it to be accepted as primary private open space.

7.3.5. Furthermore, the rear private open space for the existing dwelling, in addition to the rear elevation would be subject to perceptions of intrusiveness on privacy and overlooking from the first-floor main living space in the proposed dwelling.

7.4. Entrance Arrangements.

- 7.4.1. With regard to the scope for achievement of adequate sightlines at the entrance proposed off St. Peter's Road, although the location is relatively close to the junction with the Dublin Road, the turning movements onto and off the site would be insignificant and egress and access in forward gear should be feasible if on-site parking is restricted to one space as has been demonstrated on drawing 121134-001 Rev P1. The applicant has indicated ownership and therefore no objection to alteration of the boundary to the east to provide for adequate sightlines but has not included any proposals with the appeal as to how this could be achieved although the claim may be feasible. (The grant of permission under P. A. Reg. Ref.20/848 is noted.) As such, insufficient information has been provided to enable consideration of this proposal. It is not considered appropriate for such an issue to be considered post planning by way of compliance with a condition as proposed in the applicant's submission.

7.5. Structural Stability of wall on Old Connaught Avenue.

- 7.5.1. It is considered that the applicant's undertaking to employ a structural engineer to conduct an assessment and provide for underpinning would be appropriate in the event that permission is to be granted. A compliance submission for an assessment report could be required by condition would be advisable. Any dispute over this matter would be open to resolution through the legal process.
- 7.5.2. There is no objection to the proposed new pedestrian entrance, subject to there being no objection by the local authority and any necessary consents being obtained.

7.6. Environmental Impact Assessment Screening.

- 7.6.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. **Appropriate Assessment Screening.**

- 7.7.1. Having regard to the nature of the proposed development and, to the serviced inner urban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

Given the foregoing, the decision of the planning authority to refuse permission is supported and it is recommended that permission be refused based on the Reasons and Considerations which follow:

9.0 **Reasons and Considerations**

1. It is considered that the proposed development would be contrary to the zoning objective, "*To protect, provide and improve residential amenities of existing residential areas*" as provided for in the Bray Local Area Plan, 2018 because it would constitute a substandard and piecemeal form of back land development which would seriously injure the residential amenities and privacy of the existing development and those of the future occupants of the proposed dwelling by reason of:

the restricted site layouts resulting from the proposed site subdivision in which there is predominance of hard surface space relative to landscaped private open space,

dependence on provision for vehicular access via the side of the existing dwelling, and

dependence on poor outlook to the north over a small terrace from the interior of the upper floor main living accommodation.

As a result, the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied based on the information available in connection with the application and the appeal that the adequate sight lines to the east can be provided proposed entrance to demonstrate that the proposed development would not give rise to endangerment of public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy

Senior Planning Inspector

31st October, 2021.